



06-15-05

for 1651

PTO/SB/21 (09-04)

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

|  |   |                        |                      |
|--|---|------------------------|----------------------|
|  |   | Application Number     | 09/202,791           |
|  |   | Filing Date            | (Intl) June 26, 1997 |
|  |   | First Named Inventor   | Kouji MATSUSHIMA     |
|  |   | Art Unit               | 1651                 |
|  |   | Examiner Name          | D. Ware              |
| Total Number of Pages in This Submission | 6 | Attorney Docket Number | 350292000500         |

### ENCLOSURES (Check all that apply)

|  |   |   |
|--|---|---|
| <input type="checkbox"/> Fee Transmittal Form                                  | <input type="checkbox"/> Drawing(s)   | <input type="checkbox"/> After Allowance Communication to TC                            |
| <input type="checkbox"/> Fee Attached  | <input type="checkbox"/> Licensing-related Papers                                       | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences     |
| <input type="checkbox"/> Amendment/Reply                                       | <input type="checkbox"/> Petition   | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final   | <input type="checkbox"/> Petition to Convert to a Provisional Application               | <input type="checkbox"/> Proprietary Information  |
| <input type="checkbox"/> Affidavits/declaration(s)                             | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input type="checkbox"/> Status Letter  |
| <input type="checkbox"/> Extension of Time Request                             | <input type="checkbox"/> Terminal Disclaimer  | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):         |
| <input type="checkbox"/> Express Abandonment Request                           | <input type="checkbox"/> Request for Refund   | Form PTO/SB/08a/b (1 page + duplicate)<br>2 References<br>Return Receipt Postcard       |
| <input checked="" type="checkbox"/> Information Disclosure Statement (3 pages) | <input type="checkbox"/> CD, Number of CD(s)  |   |
| <input type="checkbox"/> Certified Copy of Priority Document(s)                | <input type="checkbox"/> Landscape Table on CD  |   |
| <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application        | Remarks   |   |
| <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53      | <b>CUSTOMER NO. 25225</b>   |   |

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

|              |                         |          |        |
|--------------|-------------------------|----------|--------|
| Firm Name    | MORRISON & FOERSTER LLP |          |        |
| Signature    |                         |          |        |
| Printed name | Laurie L. Hill          |          |        |
| Date         | June 14, 2005           | Reg. No. | 51,804 |

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 548 426 343, in an envelope addressed to: MS AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: June 14, 2005

Signature:

(Rhea Amid)



JUN 14 2005

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 548 426 343 US, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 6-14-05

Signature: Rhea Amid  
(Rhea Amid)

Patent  
Docket No. 350292000500

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Kouji MATSUSHIMA et al.

Serial No.: 09/202,791

Filing Date: (Int'l) June 26, 1997

For: THERAPEUTIC AGENT FOR ACUTE  
LUNG INJURY RESULTING FROM  
INDIRECT CAUSES COMPRISING  
ANTI-IL-8 ANTIBODY AS ACTIVE  
INGREDIENT

Examiner: D. Ware

Group Art Unit: 1651

### SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.97 and § 1.98, Applicants submit for consideration in the above-identified application the document listed on the attached Form PTO/SB/08a/b. Copies of documents numbers 1 and 3 are also submitted herewith. The document number 2 is currently unavailable to applicants, but a copy will be submitted at a later date. The Examiner is requested to make these documents of record.

The documents listed on the attached Form PTO/SB/08a/b was cited in an Office Action mailed on March 14, 2005, directed to a counterpart international or foreign application and has not been previously cited. A certification under 37 C.F.R. § 1.97(e)(1) follows:

sd-258684

I hereby certify that each item of information was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filling of this Information Disclosure Statement.

This Information Disclosure Statement is submitted:

- With the application; accordingly, no fee or separate requirements are required.
- Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
  - A fee is required. A check in the amount of \_\_ is enclosed.
  - A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
  - A Certification under 37 C.F.R. § 1.97(e) is provided above; accordingly; no fee is believed to be due.
- After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
  - A Certification under 37 C.F.R. § 1.97(e) is provided above and a check in the amount of \_\_ is enclosed.
  - A Certification under 37 C.F.R. § 1.97(e) is provided above and a Fee Transmittal form (PTO/SB/17 is attached to this submission in duplicate.)

Applicants would appreciate the Examiner initialing and returning the Form PTO/SB/08a/b, indicating that the information has been considered and made of record herein.

The information contained in this Information Disclosure Statement under 37 C.F.R. § 1.97 and § 1.98 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal form is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. § 1.17 (p)) is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petition and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 350292000500.

Dated: June 14, 2005

Respectfully submitted,

By   
Laurie L. Hill  
Registration No.: 51,804  
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ALTERNATIVE TO PTO/SB/08a/b (06-03)

|                              |   |    |   |                        |                       |
|------------------------------|---|----|---|------------------------|-----------------------|
| Substitute for form 1449/PTO |   |    |   | Complete if Known      |                       |
|                              |   |    |   | Application Number     | 09/202,791            |
|                              |   |    |   | Filing Date            | (Int'l) June 26, 1997 |
|                              |   |    |   | First Named Inventor   | Kouji MATSUSHIMA      |
|                              |   |    |   | Art Unit               | 1651                  |
|                              |   |    |   | Examiner Name          | D. Ware               |
| Sheet                        | 1 | of | 1 | Attorney Docket Number | 350292000500          |

| U.S. PATENT DOCUMENTS |                       |   |                                |  |   |
|-----------------------|-----------------------|---|--------------------------------|--|---|
| Examiner Initials*    | Cite No. <sup>1</sup> | Document Number<br>Number-Kind Code <sup>2</sup> (if known) | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines, Where<br>Relevant Passages or Relevant<br>Figures Appear |
|                       |                       |   |                                |  |   |

| FOREIGN PATENT DOCUMENTS |                       |  |                                |  |   |
|--------------------------|-----------------------|--|--------------------------------|--|---|
| Examiner Initials*       | Cite No. <sup>1</sup> | Foreign Patent Document<br>Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known) | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines,<br>Where Relevant Passages<br>or Relevant Figures Appear |
|                          | 1.                    | WO-96/02576  | 02/1996                        |  | T <sup>6</sup>  |

\*EXAMINER: Initial if information considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

| NON PATENT LITERATURE DOCUMENTS |                       |   |  |  |  |
|---------------------------------|-----------------------|---|--|--|--|
| Examiner Initials               | Cite No. <sup>1</sup> | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. |  |  |  |
|                                 | 2.                    | Ganong, Review of Medical Physiology (18th Edition), Prentice Hall Int., Inc. (1997) pp.954-595 and 638-645   |  |  |  |
|                                 | 3.                    | Queen et al., Proc. Natl. Acad. Sci. USA (1989) 86:10029-10033  |  |  |  |

\*EXAMINER: Initial if information considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>Applicant is to place a check mark here if English language Translation is attached.

|                    |                 |
|--------------------|-----------------|
| Examiner Signature | Date Considered |
|--------------------|-----------------|

sd- 258678